

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN FORD

Plaintiff,

-against-

THE NEW YORK CITY BOARD OF EDUCATION
(a/k/a THE DEPARTMENT OF EDUCATION) and
CARMEN FARINA, IN HER OFFICIAL CAPACITY AS
CHANCELLOR,

Defendants.
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KATHARINE H. PARKER, United States Magistrate Judge:

On April 27, 2021 Plaintiff Brian Ford submitted an application for the Court to request pro bono counsel on Plaintiff's behalf. (ECF No. 54.) Specifically, Plaintiff seeks pro bono counsel to assist him in discovery and to respond to the pending motion to dismiss filed by Defendants at ECF No. 55. Plaintiff made a similar request just a few months ago. (ECF No. 9.) The Court denied that initial request without prejudice to Plaintiff's right to file another application after filing an amended complaint. (ECF No. 10.) It is still too early in the proceedings for the Court to assess the merits of this action and, therefore, the Court is compelled to deny Plaintiff's request, once again, without prejudice.

The factors to be considered in ruling on an indigent litigant's request for counsel include the merits of the case, Plaintiff's efforts to obtain a lawyer, and Plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172. Because, as noted, it is too early in the proceedings for the Court to assess the merits of

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19-CV-6327 (JPC) (KHP)

**ORDER ON APPLICATION FOR PRO
BONO COUNSEL**

the action, Plaintiff's motion for counsel (ECF No. 54) is denied without prejudice to refiling another application after the Court rules on Defendants' motion to dismiss.

SO ORDERED.

Dated: New York, New York
May 17, 2021



KATHARINE H. PARKER
United States Magistrate Judge